

Attorney Docket No.: DRE-0067
Inventors: Laurencin et al.
Serial No.: 10/052,121
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REMARKS

Claims 1-3, 5 and 6 are pending in the instant application. Claims 1-3, 5 and 6 have been rejected. Reconsideration is respectfully requested in light of the following remarks.

Rejection of Claim 1 under 35 U.S.C. § 102(b) and Claims 1-3, 5 and 6 under 35 U.S.C. 103(a)

The rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by Devin et al. has been maintained.

The rejection of claims 1-3, 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over Devin et al. in view of Spaulding (U.S. Patent 6,001,643) and Granet et al., and if necessary in further view of Kusano et al. (U.S. Patent 5,006,467), Henderson (U.S. Patent 4,448,884) or Starling (U.S. Patent 6,210,715) has also been maintained.

Applicants respectfully traverse these rejections.

It is respectfully pointed out that the Examiner's characterization of Figure 2 of Devin et al. as showing hollow microspheres is incorrect.

Figure 2 is an environmental scanning electron microscopy (ESEM) photograph of the top face of a 100% PLAGA 3-dimensional matrix, not a microsphere as suggested by the Examiner. The individual solid microspheres making up this matrix are barely discernible in the white aggregate of the ESEM photograph. A better picture of a solid microspheres produced by the method disclosed by Devin et al. is actually set forth in Figure 4. The dark portion in Figure 2, which the Examiner appears to have mistaken as representing the hollow portion of a microsphere, is

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actually a channel through the polymer matrix produced by imperfect packing of the microspheres and a salt leaching process. See page 663 of Devin et al. This channel or pore in the matrix of aggregated microspheres (not a single microsphere) is better depicted in the Figure 3. Figure 3 again shows an aggregate of solid microspheres in white on the ESEM photograph.

Applicants are also providing herewith a Declaration by Dr. Cato Laurencin. Dr. Laurencin is a co-inventor on the instant patent application. He is also a co-author of the paper by Devin et al. Thus, Dr. Laurencin is clearly an expert with respect to the matrix of Devin et al. as well as that of the instant invention. In paragraph 2 of Dr. Laurencin's Declaration, he makes clear that the microspheres disclosed in the paper of Devin et al. were not hollow, but rather solid microspheres. Further, in paragraph 4 of Dr. Laurencin's Declaration, he makes clear that Figure 2 of Devin et al. is not a photograph of a single microsphere but rather depicts a matrix with a channel or pore created by imperfect packing of solid microspheres and a salt leaching process.

Accordingly, since Devin et al. does not teach hollow microspheres, this reference does not teach the claimed element of a hollow microcarrier. Thus, Devin et al. cannot anticipate the pending claims. See MPEP § 2131.

Further, the secondary references cited by the Examiner in the rejection under 35 U.S.C. fail to remedy the deficiencies in Devin et al. since these references also fail to teach or suggest hollow microcarriers as claimed. Thus, the cited combination of references fails to establish a prima facie case of obviousness

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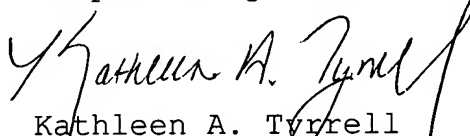
since there is no teaching or suggestion of all the claim limitations. See MPEP 2143.

Withdrawal of these rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103 is therefore respectfully requested.

Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,


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